

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: KUMAZAWA=1

| | | |
|-----------------------------|---|------------------------|
| In re Application of: |) | Confirmation No.: 2023 |
| |) | |
| Yoshio KAMUAZAWA et al |) | Art Unit: 1623 |
| |) | |
| Appln. No.: 10/553,695 |) | Examiner: S. Y. GOON |
| |) | |
| Filing Date: 02/21/2005 |) | September 24, 2008 |
| 371(c) Date: August 7, 2006 |) | |
| |) | |
| For: A CELL ACTIVATOR |) | |

SUPPLEMENTAL REPLY

Customer Service Window, Mail Stop Amendment
Honorable Commissioner for Patents
U.S. Patent and Trademark Office
Randolph Building
401 Dulany Street
Alexandria, Virginia 22314

Sir:

A review of the Reply filed August 28, 2008, reveals that it contains no Reply to that part of the Office Action of July 28, 2008, which required an election of species.

Accordingly, applicants respectfully wish to supplement the main Reply filed August 28, 2008, by responding to the requirement for election of species. Therefore, entry and consideration of this Supplemental Reply are respectfully requested.

Applicants have been required to elect a single disclosed species, namely specific chemical moiety, which applicants understand to be a single cell activator.

As applicants must make an election even though the requirement is traversed, applicants hereby respectfully and provisionally elect the compound represented by formula (3), see withdrawn claim 28, wherein R5 is R52, and R6 is hydrogen, with traverse and without prejudice.

The claims which read on this species are claims 50, 55, and 56.

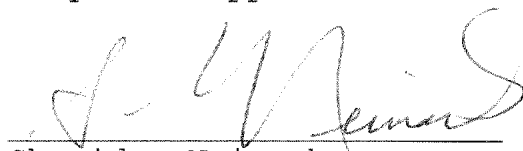
The requirement is traversed on the basis of the second paragraph of MPEP 803. While applicants do not necessarily take the position that an examination of all claims would not constitute a serious burden, applicants believe that it is clear that much more than simply the elected subject matter could be searched and examined without serious burden. Applicants take no position at the present time on what species are or are not patentably distinct from other species. However, applicants note for the record the "patentably distinct" means "patentable over", whereby maintaining the requirement would mean that the PTO has held that every species defines non-obvious subject matter over every other species.

Applicants again respectfully request at least partial withdrawal of the various requirements and examination of plural groups and species, and applicants now respectfully await the results of a first examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicant

By


Sheridan Neimark

Registration No. 20,520

SN: jnj
Telephone No.: (202) 628-5197
Facsimile No.: (202) 737-3528
G:\BN\S\SIKS\KUMAZAWA1\PTO\2008-9-23SupplementalAMD.doc